

**Title 1—OFFICE OF
ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Procedure For All Contested
Cases Under Statutory Jurisdiction,
Except Cases [Under Section 621.040, RSMo]
Where Procedure Is Otherwise Provided For By Law**

1 CSR 15-3.420 Discovery

PURPOSE: This amendment makes commission requirements for filing a certificate of service for discovery requests more consistent with procedure in the circuit courts.

(1) Any party may obtain discovery in the same manner, upon or under the same conditions and upon the same notice and other requirements as is or may be provided for with respect to discovery in civil actions by rule of the Supreme Court of Missouri for use in the circuit court, except as provided in this rule or by statute.

(2) Service and Responses.

(A) A party serving written interrogatories; requests for admissions, production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations, shall include a certificate of service in substantially the following form:

I served the original and (number of) copies of these (written interrogatories/production of documents or things or permission to enter upon land or other property, for inspection and other purposes/physical and mental examinations/requests for admission) on (name and address of parties or attorneys) this _____ day of _____, 20_____.

(Signature)_____

The party shall file a copy of the certificate with the commission. The party shall serve the original discovery on the party to whom it is directed.

1. The party shall not file written interrogatories; requests for production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations with the commission unless the commission so orders.

2. The party may file requests for admissions with the commission.

(B) Requests for admission and interrogatories shall include appropriate spaces for answers or objections.

(C) The party responding to requests for admissions or interrogatories shall complete them by [typewriting or] printing the answer or objection to each question in the space provided. If the space is insufficient, the party shall reply by affidavit, clearly indicate so in the space provided, and attach the affidavit to the interrogatories or requests for admissions. Each response shall include a certificate of service in substantially the following form:

I served the original of these completed (written interrogatories/requests for admission) on (name of party) and sent (number of) copies to (name and address of parties or attorneys) this _____ day of _____, 20_____.

(Signature)_____

The responding party shall file the certificate of service with the commission and shall not file the response unless the commission so orders. The responding party shall serve the original completed response on the interrogating party and copies on all other parties.

(D) The commission will not serve any discovery with the notice of complaint.

(3) Whenever a party files a motion to compel compliance with any discovery request, to sanction another party for failing to respond or responding inadequately to any discovery request, or alleging violation of any discovery rule, the moving party shall certify in its motion that it has made reasonable efforts to contact the party who is the subject of the motion and inform the commission as to what steps the moving party has taken to resolve informally the discovery dispute or alleged discovery rule violation. The party seeking relief shall attach a copy of any disputed discovery to that motion.

(4) No discovery or response to discovery shall be considered as evidence unless it is admitted into evidence at hearing, or authenticated and attached to a motion for disposition without hearing, as an exhibit.

(5) No discovery order that requires a physical or mental examination, permits entrance upon land or inspection of property without permission of the owner, or purports to hold any person in contempt shall be enforceable, unless the party seeking such enforcement obtains an order of the circuit court of the county in which the hearing will be held, or the circuit court of Cole County, at the option of the person seeking enforcement. This section does not apply to a case filed under section 407.822, RSMo Supp. 2001.

AUTHORITY: sections 536.073 and 621.035, RSMo 2000 and 621.198, RSMo Supp. 2013. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002, effective Nov. 30, 2002. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed May 30, 2006, effective Nov. 30, 2006. Amended: Filed _____, 2016, effective _____, ____.*

**Original authority: 536.073, RSMo 1957, amended 1985, 1989, 1995; 621.035, RSMo 1978; and 621.198, RSMo 1965, amended 1978, 2001.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.